IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4478 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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DINESH RAMBODH YADAV

Versus

MANAGER GOVT.CENTRAL PRESS

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Appearance:

1. Special Civil Application No. 4478 of 2001

MR UI VYAS for Petitioner No. 1

MR ND GOHIL, ASSTT.GOVERNMENT PLEADER for Respondent No. 1

RULE SERVED for Respondent No. 1

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CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 24/09/2004

ORAL JUDGEMENT

In the present petition, the petitioner has challenged the legality of the award dated 18.11.2000,

passed by the Labour Court, Ahmedabad, by which the Reference of the petitioner workman was rejected.

2. Earlier, the Reference in question - namely LCA No. 1297 of 1992 was allowed by the Labour Court, which came to be challenged by the respondent before this Court and the High Court, while disposing of the Special Civil Application No. 10116 of 1998 on 4.3.1999, was pleased to remand the matter back to the Labour Court for fresh consideration. The main reason for remand was that the Labour Court while holding that the petitioner had worked for more than 240 days during the relevant period of 12 calendar months preceding the date of termination, had ignored the vouchers produced by the respondent on the ground that the signatures of the workman were not proved. The High Court found that there was no objection raised as to the veracity of the documents and the Labour Court, therefore, erred in ignoring the said documents from its consideration.

3. Upon remand, the Labour Court was pleased to decide the matter afresh and by the impugned award dated 18.11.2000, was pleased to reject the Reference of the petitioner workman.

4. While rejecting the Reference, the Labour Court was pleased to come to the conclusion that the petitioner had not produced any material to establish that he had worked for 4 years continuously from 26.8.1987. The Labour Court took into account the evidence produced by the respondent, including the vouchers and came to the conclusion that the workman has not proved his case of having worked for 4 years continuously with the respondent and it was only a case of being called for work as and when required. In the result, the Labour Court was pleased to reject the Reference of the workman.

5. I have heard the learned Counsel appearing for the parties and also perused material on record. The R & P was also called for by this Court. From the available material on record, the findings of the Labour Court cannot be faulted with. No material has been produced or pointed out to suggest that the petitioner had completed more than 240 days during the 12 calendar months preceding the termination. The factual findings of the Labour Court being in conformity with the evidence on record, the same cannot be interfered with. In the result, I find nothing wrong with the award of the Labour Court and the petition therefore being devoid of merits is hereby rejected. Rule is discharged with no order as to costs.

R & P to be sent back to the concerned Court.

(Akil Kureshi, J.)

*/Mohandas